IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 18812 of 2007(M)

CMA.19/2006 of PRINCIPAL SUB COURT,KOCHI
OS.463/2006 of M.C., KOCHI
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PETITIONERS:
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1. BETTY JOSE, W/O. LATE JOSE,
PANAKKAL HOUSE, NAYARAMBALAM P.O.,
ERNAKULAM DISTRICT.

2. SIMMY, S/O. JOSE,
PANAKKAL HOUSE, NAYARAMBALAM P.O.,
KOCHI TALUK, ERNAKULAM DISTRICT.

3. JIMMY, S/O. LATE JOSE,
PANAKKAL HOUSE, NAYARAMBALAM P.O.,
KOCHI TALUK, ERNAKULAM DISTRICT.

4. RIMMY, S/O. LATE JOSE,
PANAKKAL HOUSE , NAYARAMBALAM P.O.,
KOCHI TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.N.RATHEESH
SMT.SUMA RATHEESH

RESPONDENT:

ITTOOP, S/O. KURUVILLA,
SANKURIKAL HOUSE, NARAKKAL P.O.,
NARAKKAL, KOCHI TALUK.

BY ADV. SRI.JOHN JOSEPH(ROY)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioners' Exts:

Ext.P1 true copy of the interlocutory application I.A. No.2789/06 in OS No.463/06 dated 13.11.2006 before the Munsiff's Court, Kochi.

Ext.P2 true copy of the order dated 1.12.2006 passed in IA 2789/06 in OS 463/06 of the Munsiff's Court, Kochi.

Ext.P3 true copy of the appeal, CMA 19/06 dated 4.12.2006 on the file of the Principal Sub Court, Kochi.

Ext.P4 judgment dated 23.2.2007 in CMA No.19/06 of the Sub Court, Kochi.

M.N.Krishnan, J.

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W.P(C).No.18812 of 2007

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Dated this the 7TH day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Kochi in C.M.A.No.19 of 2006. There are two suits; one filed by the landlord to restrain the tenants from doing maintenance and modification and the other suit is filed by the tenants to restrain the landlord from forcefully evicting them. An interim application was filed before the trial court and the court permitted the tenants to carry out the plastering works on the northern and western walls of the plaint schedule room to white wash and paint to carry out the beautification works. This order was set aside and the application was dismissed.

2. I am informed that now the suit has come up in the list for trial and again it comes up in the list on 13.11.2007. At this stage, I do not want to interfere with the finding rendered by the Appellate Court because the very subject matter of the suit is

regarding an injunction against the doing of all these things. So everything will have to depend upon the result of the suit. But needless to say that the trial court shall proceed with the matter and dispose it of in accordance with law untrammelled by the observations contained in its own judgment or in the judgment rendered by the Subordinate Judge in the C.M.A. Since the matter is already listed, let the trial be completed and if any applications are filed by either of the parties that may be considered by the court and disposed of in accordance with law. The directions shall not mean that the court shall not grant breathing time for the parties to have their matter agitated in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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